

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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LANE MCDONOUGH,

Plaintiff,

-against-

THE NEW YORK CITY DEPARTMENT OF  
EDUCATION, PAUL DIDIO

Defendant.

**DECLARATION OF  
ASSISTANT CORPORATION  
COUNSEL EVAN M. PIERCEY  
IN SUPPORT OF  
DEFENDANTS' MOTION TO  
DISMISS THE COMPLAINT**

No. 16 Civ. 4272 (LTS) (JLC)

----- X  
**Evan M. Piercey** declares that the following is true and correct under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am an Assistant Corporation Counsel in the office of Zachary W. Carter, Corporation Counsel of the City of New York, attorney for Defendants, New York City Department of Education and Principal Paul DiDio ("Defendants").

2. I respectfully submit this declaration in support of Defendants' motion to dismiss the Complaint ("Complaint") pursuant to Rule 12(b) of the Federal Rules of Civil Procedure ("FRCP"), and section 3813 of the New York Education Law, in order to place before the Court documents relied upon by Defendants in their motion to dismiss.

3. Defendants annex the following documents in support of their motion to dismiss the Complaint, which are referred to in the Complaint, are matters of which judicial notice may be taken, are documents in Plaintiff's possession, or are documents of which Plaintiff had knowledge and upon which Plaintiff relied in bringing this action:

**Exhibit A:** Lane McDonough Nomination Notification Email, dated June 6, 2014;

**Exhibit B:** Charge of Discrimination in U.S. Equal Employment Opportunity Commission ("EEOC") Case No. 520-2015-03738;

**Exhibit C:** New York City Department of Education Dismissal Letter in Response to EEOC Case No. 520-2015-03738;

**Exhibit D:** EEOC Dismissal and Notice of Rights in Case No. 520-2015-03738.

I declare under penalty of perjury that the foregoing is true and correct.

New York, New York  
October 14, 2016

By:                     /s/                      
Evan M. Piercey  
Assistant Corporation Counsel